



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 W. 15<sup>th</sup> STREET, SUITE 3200  
HELENA, MONTANA 59626

Ref: 8ENF-L/MO

February 1, 2012

Jean A Martin, Counsel  
BP America Inc./ARCO  
501 Westlake Park Blvd.  
Mailcode WL1.16.184  
Houston, Texas 77079

William Duffy, Attorney  
Davis, Graham and Stubbs  
1550 Seventeenth St., Suite 500  
Denver, Colorado 80202

RE: Milltown Site Financial Assurance and Ms. Martin's letter of December 23, 2011

Dear Ms. Martin and Mr. Duffy;

Thank you for Ms. Martin's letter of December 23, 2011 on behalf of the Settling Defendants under the Milltown Site Consent Decree. The assurances and representations regarding the Chartis Speciality Lines Insurance Company Policy (the Policy) completes the Milltown Site Settling Defendants' financial assurance demonstration for 2011.

Ms. Martin's letter asks why EPA had asked for an annual demonstration that the Policy, or some other form of acceptable financial assurance, remains in effect. Paragraph 67 of the Milltown Site Consent Decree states, in part,

"Settling Defendants shall submit statements signed by a responsible corporate official conveying the information required for the selected or current method of financial assurance on an annual basis, with the first submission due on May 1, 2006, and subsequent submissions due on May 1 of each succeeding year."

This requirement does not make a distinction between the financial assurance for remedial action at the site and certain operation and maintenance requirements and financial assurance for the remaining operation and maintenance that is described in paragraph 66 of the Milltown Site Consent Decree. Therefore, we believe an annual demonstration of acceptable financial assurance for both types of site activities (the Remedial Action at the Site and certain Operation and Maintenance requirements, and the remaining Operation and Maintenance requirements) is required.

The Policy satisfies the financial assurance required for Remedial Action at the Site and certain Operation and Maintenance activities. EPA had previously approved of a Letter of Credit for the remaining Operation and Maintenance activities.



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We look forward to the next annual demonstration of financial assurance in May 2012. We understand that the existing Milltown Site Letter of Credit covers the remaining Operation and Maintenance activities for a period of time beyond May 2012 and will expect the Letter of Credit to continue to provide financial assurance for the May 2012 annual demonstration for such activities for the year following May 2012. Given the Environmental Protection Agency's (EPA) and the State of Montana's prior approval of the Policy, we expect the annual demonstration to also include an assurance and representation regarding the Policy again for Remedial Action at the Site and certain Operation and Maintenance activities, unless the Settling Defendants choose another form of acceptable financial assurance for these activities.

Thank you again for the submission.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Henry Elsen".

D. Henry Elsen, Attorney  
Legal Enforcement Program

cc: Rich Curley, Attorney (for ARCO)  
Heather Grahame, Counsel for NorthWestern  
Bill Thompson, NOR  
Marc Ferries, BP  
Cord Harris, BP/ARCO  
Roy Thun, ARCO  
William Thompson, NOR  
Bill Kirley, DEQ  
Keith Large, DEQ  
John Sither, DOJ  
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Rebecca Summerville, Attorney for Envirocon  
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